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ABSTRACT

This report attempts to present a balanced discussion of several key issues in the charter school movement. Its goal is to help school board members, especially those in urban districts, assess the record of charter schools so far, and understand the complexity of the issues involved. The first chapter presents a brief legislative history of the movement and explains why the movement has attracted bipartisan political support. Chapter 2, "The National Landscape," describes variations in state law that are crucial to understanding the charter school movement. "Research Results," Chapter 3, finds that answers to the critical question of whether charter schools work are not readily forthcoming, both because the movement is young and because of uncertainty about ways to measure achievement. Chapter 4 offers "A Case Study of San Diego Charters" to show charter schools in the eighth largest urban school district in the United States. In Chapter 5, "The Impact of Charter Schools in School Reform," it is noted that as yet there is little hard evidence of systemic school reform as a result of the charter school movement. Chapter 6, "Teacher Union Response to Charter Schools," discusses changes in the unions' position from opposition to cautious acceptance of charter schools. Chapter 7 examines "The Role of School Boards in Existing Charter Laws" and discusses the importance of the exercise of school board authority over charter schools. Chapter 8 presents the perspectives of the National School Boards Association and its Council of Urban Boards of Education. These organizations suggest that charter schools are promising reform efforts, but not a panacea for problems in public education. (Contains 2 charts and 34 references.) (SLD)

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The Basics of Charter Schools: A School Board Primer

An NSBA Council of Urban Boards of Education Publication

Author: Judith B. Saks

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FOREWORD

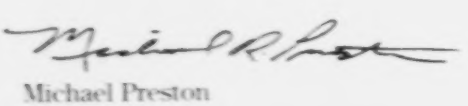
The charter school movement, which U.S. Secretary of Education Richard W. Riley has called the fastest growing public school choice movement of the 1990s, has taken root in 27 states and the District of Columbia since its inception in 1991. From all indications, many more states will enact charter laws in the near future. Charter schools—defined as public schools, under contract from a public agency, that are given considerable freedom from state and local laws and regulations in return for improving student performance—are still experimental and controversial. Advocates say charter schools will not only raise academic achievement in those schools, but will ultimately improve public school systems by injecting competition and sharing successful programs and practices. Opponents say, however, that charter schools may siphon off badly needed resources from public schools and may duplicate programs that already exist. They are also concerned that charters may segregrate along racial, economic, or academic lines, making traditional public schools the last, or only, resource for those students who are more challenging and more expensive to educate.

In most states with charter legislation, local school boards are empowered to sponsor, monitor, and renew or revoke a charter. That authority gives schools boards a special responsibility to weigh the potential risks of charter schools against potential benefits. A charter school is not simply a small business subject to the vagaries of the marketplace and the business acumen of its operators; it is an institution that holds an important key to a child's future. When a charter school fails, the students whose education is disrupted pay an immediate price. The entire school district also bears a burden as it hurries to accommodate those students. And citizens, whose taxes paid for the failed experiment, suffer a financial loss and, perhaps, a loss of faith in the ability of the local school board to make sound educational decisions.

Charter schools can provide an opportunity to offer creative and flexible education options that respond to many parents' and students' needs, and they may be a legitimate component of a district's educational strategy. We urge those local boards that approve charter schools to exercise their responsibility to provide oversight. Local boards should carefully determine how well a proposed charter supports a district's overall educational goals, should review each charter to make certain it does not foster segregation, should ensure that it delivers the educational performance it promises and adheres to generally accepted management and fiscal standards, and should retain options to decertify any school that fails to meet mutually agreed upon criteria.

By providing a balanced discussion of a number of key issues, *The Basics of Charter Schools: A School Board Primer* may help answer many of your questions about charter schools. We very much hope this report will offer guidance as you strive to provide the best possible education for all the students in your district.

Anne L. Bryant
Executive Director
National School Boards Association



Michael Preston
Chair
Council of Urban Boards of Education

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This report, *The Basics of Charter Schools: A School Board Primer*, attempts to present a balanced discussion of several key issues in the burgeoning but still controversial charter school movement. Its goal is to help school board members across the country, and particularly those in urban school districts, assess the record of charter schools thus far and understand the complexity of the issues involved.

The report begins with "A Brief History of the Charter School Movement," describing the ways in which the charter concept has broadened and changed since it was first discussed nearly a decade ago. After outlining several school reform efforts that acted as catalysts for charter schools, Chapter One presents a brief legislative history of the movement and explains why the movement has attracted bipartisan political support at both national and state levels.

Chapter Two, "The National Landscape," describes the variations in state law that are crucial to understanding the charter school movement. Certain states have passed stronger laws that allow charter schools to flourish, while other states have enacted more restrictive laws that have inhibited the growth of charter schools. This chapter also offers the latest demographic data, as of summer 1997, about existing charter schools and the students they serve. These data indicate that most charter schools are small and that, in most states, their racial composition and proportion of low-income students mirror state averages.

Chapter Three, "Research Results," finds that answers to the critically important question, "Do charter schools work?" are not readily forthcoming, not only because the movement is still young, but also because states, school districts, and charter schools are often not certain how to measure student achievement. The chapter discusses the ways in which the ideology and limited scope of some current research may affect results, and reviews some state-level measures of charter school performance as well.

Chapter Four offers "A Case Study of San Diego Charters." As the eighth largest urban school district in the nation, and the second largest in California, the San Diego district has lessons to teach about the issues and challenges other urban school boards may face.

Chapter Five, "The Impact of Charter Schools on School Reform," notes that, as yet, there is little hard evidence of systemic school reform as a result of the charter school movement. The chapter does offer some anecdotal evidence — including commentary from state officials in Massachusetts and Colorado — that charter schools are beginning to have a "ripple" effect on public school systems.

Chapter Six, " Teacher Union Response to Charter Schools," discusses the changes in the unions' positions from opposition to cautious acceptance of charter schools. The chapter examines findings from the American Federation of Teachers' charter schools report and describes the National Education Association's charter schools initiative.

Chapter Seven, which examines "The Role of School Boards in Existing Charter Law," describes the board's authority to sponsor and monitor charter schools in states that have passed legislation. The chapter, which includes advice from the California School Boards Association, discusses the importance of boards' exercising oversight over the charter schools they sponsor.

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Finally, Chapter Eight's "Conclusion" offers the perspective of the National School Boards Association (NSBA) and its Council of Urban Boards of Education (CUBE) on the charter school movement. NSBA suggests that school boards recognize that charter schools hold promise but are not a panacea for the problems in public education. The conclusion includes a resolution, passed by NSBA's 1997 Delegate Assembly, that defines the conditions under which charter schools might be appropriately included in a school board's educational program.

A BRIEF HISTORY OF THE CHARTER SCHOOL MOVEMENT

The charter school movement is, according to U.S. Education Secretary Richard W. Riley, the fastest growing public school choice movement of the 1990s. Still controversial and very much at the experimental stage, this new form of public schooling has so far taken root in 27 states and the District of Columbia. Many more states are expected to enact charter laws in the near future.

Charter schools, in essence, are public schools under contract — or charter — from a public agency to groups of parents, teachers, school administrators, non-profit agencies, or businesses that want to create alternatives and provide choice within the public school system. The schools operate largely free of legal and regulatory restrictions, but, in return for that freedom, must show results and improve student achievement or risk losing their charter. Charter schools receive public money, cannot legally exclude students, and are publicly accountable.

Generally, those who petition to open a new school, or convert an existing public school to charter status, must negotiate the charter with the local school district or a state body empowered to approve the contract. The contract, typically granted for a three-to-five year period, explains how the school will be run, what courses will be offered, how success will be measured, and what outcomes students will achieve. The charter school receives funding at or near the per-pupil level other public schools in the district receive. The contract's renewal or termination is based on a school's ability to show evidence that students have gained the knowledge and skills outlined in the charter.

The charter school idea was conceptualized nearly a decade ago, although its focus has changed dramatically since that time. In a 1988 book, *Education by Charter: Restructuring School Districts*, Ray Budde, a retired teacher and expert on school district reorganization, proposed that a school board directly "charter" teams of teachers to establish new, innovative programs within a district for a three-to-five year period. The late Albert Shanker, former president of the American Federation of Teachers (AFT), took the concept a step further, expanding the idea from "programs" to "schools" in a March 1988 speech in Washington, D.C. Later that year, Shanker used his weekly *New York Times* column to report that delegates to the 1988 AFT national convention had proposed that local school boards and teacher unions jointly develop a procedure to enable teams of teachers to establish autonomous public schools within school buildings. Paying tribute to Budde's idea, Shanker said these "schools within schools" would be called "charter schools."

The 1983 publication of A Nation At Risk *was a catalyst for a variety of school reform efforts*

The idea might not have taken hold, however, had it not been for the dissatisfaction expressed over the quality of public education in general — and of urban schools in particular — during the last 15 years. The 1983 publication of *A Nation at Risk*, together with the publication of a dozen other major studies urging the reform of America's schools, was a catalyst for a variety of school

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reform efforts. Over the years, educators and policymakers have tried a number of strategies to improve schools, particularly for minority and disadvantaged youth. Many of these efforts were "attempts to inject free market forces — competition, accountability, efficiency, responsiveness to customers — into what many perceived as an over-regulated, over-centralized public education monopoly with a strong allegiance to the status quo and no institutional incentive to improve student performance," writes Mark Buechler in *Charter Schools: Legislation and Results after Four Years.*

By the beginning of this decade, Buechler says, several trends in education policy had laid the foundation for the charter school movement. They were: the accountability movement, which was evidenced by performance-based accreditation, school improvement awards, and other attempts to judge educators by results; deregulation, which meant eliminating many of the regulations under which schools operate; decentralization, or a movement toward site-based management, local control, and teacher empowerment; restructuring, or attempts to effect fundamental change in the purpose, organization, and operation of the schools; and intradistrict and interdistrict public school choice plans that allow parents to select the public school their child should attend.

It was, however, the growing threat of private school vouchers — the most extreme form of choice — that propelled the charter movement to the forefront. Even many of the most ardent choice advocates resisted the idea of giving parents public money to send their children to private or parochial schools that were not obligated to accept all students, could charge tuition above the voucher amount, were not responsible for documenting improved student achievement, and were not publicly accountable.

Describing the struggle over charter legislation in California in the September 1996 *Phi Delta Kappan*, legislation sponsors Gary K. Hart and Sue Burr recalled: "Something had to be done to respond to the public's frustration with public schools, and it seemed possible to us to craft a legislative proposal that did not sacrifice the attractive features of the voucher movement — namely, choice of schools, local control, and responsiveness to clients — while still preserving the basic principles of public education: that it be free, nonsectarian, and nondiscriminatory."

In one sense, charter schools can be seen as a compromise that adheres to the central ideals of public education even while it embraces competition and other free market tenets. Charter proponents say they believe charters strike exactly the right balance. While still being retained within the boundaries of the public school enterprise, charter schools, advocates say, increase choice, variety, and innovation in public schools; result in more individualized and specialized attention for more students; and free publicly funded schools from state and local education regulations. In addition, say advocates, charter schools are more accountable and focus on results, provide new and increased opportunities for teachers, and increase parental involvement. They also provide competition for public schools that may spark improvements throughout entire systems.

Voucher opponents have expressed concern that charter schools may siphon off badly needed resources from public schools and may duplicate existing innovations. Opponents say charter schools may become elite and exclusionary — segregating along racial and economic lines and lines of academic ability. Some worry that traditional public schools will become the dumping ground for children, particularly those with special needs, who are harder and more expensive to educate; others worry, conversely, that charter schools will attract only those students whom the system has given up trying to educate. Some opponents are concerned that liberating charters from conventional school regulations will also result in freeing them from the scrutiny necessary to deliver an effective education.

"Urban areas have become particularly fertile ground for the development of charter schools because there is a great need to find ways to improve education in the face of poor resources and overcrowding in the public schools," says the November 1996 *Digest of the ERIC Clearinghouse on Urban Education*. However, because most urban students are either economically disadvantaged or minority group members, there are concerns that charter schools may cream off the white or middle class students frequently defined as easiest to teach, "leaving the remainder to founder in arguably inferior conventional public schools," the report says.

As the public's growing frustration with the pace and scope of school improvement increased, many governors and state legislators from both political parties turned to charter schools as the reform of choice. Of the first eight states to launch charter schools, four had Democratic governors and four had Republican.

In 1991, Minnesota, which had a history of offering open enrollment and other public school choice programs, became the first state in the nation to pass charter legislation. That law was limited in scope, authorizing no more than eight schools statewide and requiring the local school board to approve each one. The original law, considered a political compromise, was later amended: It now permits 40 charter schools and allows the state board of education, upon appeal, to authorize a charter school after a local district has turned it down.

In 1992, after an exceedingly difficult legislative battle, California passed a stronger law that allowed up to 100 charter schools in the state. The charter school movement grew slowly in 1993, when Colorado and Massachusetts passed strong laws. Michigan's law, also passed in 1993, had a rocky start when a Circuit Court judge ruled that charter schools (called "public school academies") did not qualify as public schools for funding purposes. The Michigan Legislature rewrote the law in 1994, although a pending lawsuit still seeks to declare it invalid. By 1994, 11 states had enacted legislation.

The charter school movement gained real momentum in 1995 and 1996. Six more states (Alaska, Arkansas, Delaware, Louisiana, New Hampshire, Rhode Island, Texas, and Wyoming) passed charter school laws in 1995, and, in 1996, another six states (Connecticut, Florida, Illinois, New Jersey, North Carolina, and South Carolina) and the District of Columbia joined the movement. After seeing a spate of new laws enacted, the charter school movement appeared to slow down considerably in 1997, however. By summer 1997, only two new states — Pennsylvania and Mississippi — had passed charter legislation.

Urban areas have become particularly fertile ground for the development of charter schools because there is a great need to find ways to improve education in the face of poor resources and overcrowding in the public schools.

At least 10 more states, including New York and Oregon, are seriously considering charter legislation. In other states, such as Iowa, however, charter school bills have not made it past the committee level, and the charter school idea stills remains politically controversial. In 1997, seven states, including Virginia and Nevada, turned down charter legislation.

Charter schools have received bipartisan support at both national and state levels because many Republicans and Democrats see these schools as a promising strategy. The charter school movement "stirs up heated debate all along the political spectrum, often making strange bedfellows of people who are used to arguing against one another," says *Charter Schools at the Crossroads*, a summary of the proceedings of the November 1996 Northwest

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Symposium for Charter School Policy. The charter movement, the report says, has the power to inspire and the potential to "unite warring factions of the school-reform forces."

President Clinton has made charter schools a prominent part of his education strategy. A federal Public Charter Schools program, passed into law as part of the 1994 amendments to the Elementary and Secondary Education Act, helps support charter schools in states where they are legally allowed. The law authorized funds for charter school development and for a national study to assess the impact of charters. In October 1996, U.S. Secretary of Education Richard W. Riley announced the award of $17 million in grants to 19 states, Puerto Rico, and the District of Columbia to support the start-up and development of hundreds of additional charter schools. These grants help pay for planning, design, and other initial costs.

"As the fastest growing public school choice movement of the 1990s, charter schools provide a good way for communities to roll up their sleeves and move forward — with charter in hand — to strengthen options within public schools and encourage effective innovation coupled with public accountability," Riley says.

The U.S. Congress increased federal funding for the Charter Schools Program to $51 million in fiscal 1997, and President Clinton has asked congressional appropriations committees to double that funding to $100 million for fiscal 1998. U.S. Education Department officials predict that, in 10 years, some 3,000 charter schools will be open in 40 states. However, a May 1997 *Study of Charter Schools: First-Year Report*, funded by the Education Department, says that charter school expansion will depend on a variety of state and local factors — including perceptions by policymakers and the public about the ultimate value of charter schools.

THE NATIONAL LANDSCAPE

Because the charter movement is burgeoning, the national landscape is changing constantly. As of summer 1997, nearly 500 charter schools were operating in 27 states and the District of Columbia. Specifically, 480 charter schools now serve 105,127 students, according to the Washington, D.C.-based Center for Education Reform, which tracks charter school progress, and 190 more have been approved to open in fall 1997.

The three states with the preponderance of charter schools are Arizona, with 164 charters that serve 17,000 students; California, which has 109 charters educating nearly 45,000 students; and Michigan, with 76 public school academies serving nearly 12,000 students. Among major cities, Los Angeles, with 16 schools, has the most charter schools in the nation, but Chicago has approved 10 charter schools expected to open in fall 1997.

Charter school legislation varies widely among the states that have passed these laws, however. "It really is pointless to talk about 'states with charter laws,'" contends Ted Kolderie, one of the originators of the charter school concept. In his August 1996 *A Guide to Charter Activity*, Kolderie says that "with eight states having chartered 95 percent of the schools and another eight states having chartered five percent of the schools, it remains essential to distinguish between strong laws and weak laws, live laws and dead laws." (Chart A on pages 19-22 offers a summary of key provisions in state laws in 25 states and the District of Columbia.)

Charter Schools: State Developments and Federal Policy Options, a May 1997 report to the U.S. Congress by the Congressional Research Service (CRS), notes that state laws generally fall into two major categories: laws that provide more autonomy or freedom from regulation by state and local education agencies and laws that provide less autonomy. Not surprisingly, those laws that provide more autonomy tend to foster the creation of a greater number of charter schools. With the exception of Georgia, the eight states that had 10 or more charter schools in fall 1996 have charter laws that are said to offer more autonomy, the report says.

According to the CRS report, state charter school laws provide more autonomy if they:

- set either very high or no limits on the number of charters that may be granted;
- set few or no limits on what sorts of individuals or groups may apply for a charter;
- allow charters to be granted not only for the conversion of existing public schools but also for totally new schools and/or existing schools that previously were private;
- authorize a wide variety of entities — such as state education boards, colleges and universities, and local schools boards — to grant charters;
- treat individual charter schools as if they were separate local education authorities and provide for the allocation of state, federal, and even certain local revenues directly to the charter schools, bypassing local school boards;
- provide financial and technical assistance

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for acquiring school facilities, meeting other start-up costs, and meeting the administrative responsibilities of participating in federal and state aid programs;

- specify that charter schools are entitled to receive federal, state, and even local revenues that are no less than those allocated to the regular school boards;
- waive a wide variety of state regulations, particularly collective bargaining and other labor-management issues, and release the charter schools almost completely from school board control or regulation;
- do not require teachers or other staff to meet certification requirements that apply to staff in regular public schools;
- provide relatively long-term (five years or more) charters; and
- allow flexibility in the selection of accountability criteria to be used to determine whether a charter should be renewed.

In contrast, says the report, state charter laws are described as offering less autonomy if they:

- set relatively low limits on the number of charters that may be granted in any one year or in the aggregate;
- allow only limited types of individuals or groups (such as certified teachers) to apply for charters;
- allow only existing public schools (often with the approval of school staff and/or parents) to convert to charter status;
- authorize only the school board or a very small number of public entities to grant charters;
- treat charters as part of the "regular" local education authority for funding purposes;
- provide little or no technical or financial assistance for acquiring buildings or meeting other start-up costs;
- either do not specify the level of federal, state, or local funds charters are entitled to receive, or specify that charters will receive less than regular public schools;
- waive only a limited number of state and/or local regulations, and exclude labor-management relations from the waiver;
- require teachers and staff to meet certification and other requirements;
- limit charters to a relatively brief time period (two to three years); and
- allow little or no flexibility in the selection of the accountability criteria by which the charters will be judged.

At one end of the state spectrum is Arizona, whose charter law is judged by some to be the most liberal in the nation, says Chris Pipho in the March 1997 *Phi Delta Kappan*. It permits an unlimited number of charter schools to be established and lets virtually any person or organization, public or private, petition to start a charter school, he says. Charters are good for 15 years, private schools can easily convert to charter status, and two state agencies, the Board of Education and the State Board for Charter Schools, a separate charter-granting body, may approve proposals, as can local school boards. Charters may keep any property bought with state funds, may hire family members, may pay any salaries they wish, and may keep any funds left at the end of the school year, Pipho says.

Pipho notes that Arizona's approach was the subject of a front-page *Wall Street Journal* article in late 1996, which described one charter school in Phoenix that filed for bankruptcy, an Indian reservation district that charged a charter school

$175,000 for sponsorship, and stories of other charters that were misusing transportation money. "The major point of the article and of quotes from state officials was that major loopholes in the original legislation needed to be closed," he recounts.

"This is the wild west," Kolderie says of Arizona, with "probably lots of good things but also big potential for trouble." He says a 1996 change moving the term of the contract out to 15 years "pretty well removes the accountability to public authority."

At the other end of the spectrum is Rhode Island, considered a state with a very weak law that provides little autonomy or flexibility to charter schools. "Little was expected from this law, and no expectations have been disappointed," says Kolderie. The 1995 law has generated no charter schools to date, and only three applications had been received by the December 1, 1996, deadline, according to the Center for Education Reform. The AFT, however, endorses the Rhode Island law — which gives public school personnel the chance to create new schools and enables existing public schools to convert to charter status — as the model for the country. The legislation explicitly requires that the local school board and the local teachers bargaining unit share their views about the charter with the state board of regents, which makes the ultimate decision to grant the charter, writes Joe Nathan in *Charter Schools: Creating Hope and Opportunity for American Education.*

Among states that have passed charter legislation more recently, observers point to the 1996 North Carolina law as an example of a strong charter bill, although, in 1997, lawmakers were considering changes that would reduce the number of charter schools allowed within the same district. Currently, the bill permits 100 charter schools across the state (with no more than five per district) and gives broad latitude in curriculum development.

The two charter laws passed in 1997 are considerably different from each other. Observers characterize Mississippi's law, which allows six existing public schools to convert to charter status, as a weak statute whose impact is likely to be extremely limited. Pennsylvania's law, on the other hand, appears stronger because it allows an unlimited number of charter schools. However, local school boards are the only sponsoring agency, with no appeal to a state charter board permitted until 1999.

Certain provisions of state laws may have a significant impact on school boards, on teachers, and on the regular public schools in a district. They are:

- **Funding:** Funding is a critical issue for charter schools and affects them in many ways, says the Boston-based Institute for Responsive Education, which analyzed charter school legislation through 1995. Nearly every state, however, has a different, and often confusing, funding mechanism or formula. Some states, for example, specify that extra money will follow special education students because it costs more to educate those with special needs. Several states, such as Massachusetts, Michigan, and Hawaii, have established funding levels in their legislation. In Michigan, for example, every student who leaves a district to attend a charter school takes up to $5,800 in state funds along. In the Lansing district alone, two charter schools opened in fall 1996 already have more than 1,100 students. Had those students gone to public school, the district would have received $6.3 million in additional revenue.

  In other states, funding levels are negotiable on a school-by-school basis, a situation which has sometimes led to tensions between school boards and charter schools. In Colorado, for example, where

districts and charter schools must negotiate funding levels, the law says discussions must start at 80 percent of the district's per-pupil operating costs. In 1994, economics played an important, although certainly not the only, role in the Denver school board's decision to reject an application from the Thurgood Marshall charter school, which had initially asked to receive 120 percent of per-pupil costs. The district, facing a $15 million shortfall at the time, was not willing to commit more than the 80 percent funding required by law and was also concerned that the charter school would incur hundreds of thousands of dollars in other costs it had no resources to cover. In the March 29, 1995, issue of *Westword*, Denver school board member Lynn Coleman, calling the Colorado law an "unfunded mandate," is quoted as saying: "If the state thought this was such a dandy idea, then it should have cut loose the money to go with it."

- **District revenues:** Revenues that go to charter schools reduce a district's overall available funds without allowing it to benefit from a reduction in overhead, says Joan Buckley, the AFT's associate director for educational issues. Because the district generally does not know which students or teachers will choose a charter school, it cannot close specific buildings or lay off specific staff members.

  In a December 1996 article in *School Business Affairs*, however, Eric Premack, director of the Charter Schools Project of the Institute for Education Reform at California State University at Sacramento, says that the fiscal effect on a district depends on the nature of the district and its charters. "Districts in a declining enrollment mode often find that revenues drop faster than expenditures due to fixed costs," he says. "The bite can be particularly severe if the district is left with a disproportionately higher level of senior and higher paid teachers." The effect on the district may be minimized, however, if the charter has a high proportion of students from neighboring districts or private schools and if the charter schools purchase support services from the district. Some districts also levy an oversight or overhead charge on the charter school, Premack adds.

- **Teacher Issues:** Many of the state laws are unclear about collective bargaining, retirement benefits, and other issues that affect both teachers and school boards. In 15 states and the District of Columbia, charter schools may act as their own employer, but in the remaining 10 states, teachers must be employees of the local district, according to *A Study of Charter Schools*, which analyzed state charter laws passed as of August 1996. In 13 states, charter schools are subject to state collective bargaining laws, but in six other states, the legislation does not address collective bargaining arrangements. The remaining states and the District of Columbia either exclude charter schools from collective bargaining arrangements or allow schools to address collective bargaining as part of their charters, the federal report says.

  On the issue of teacher retirement, some states specify that teachers either must participate in or are eligible for the retirement system, but they are often silent on the issue of who pays for that participation. If charter school teachers remain school district employees, the district may share in the cost of retirement benefits, but if the charter school is the employer, that school may have to use its own funds to contribute to the retirement system. However, even states which allow charter

school teachers to remain in the state retirement system generally make no provision for new teachers, notes Buckley. As one example of state law, Minnesota allows teachers to continue to accrue district retirement credits while at a charter school, but they must pay both employer and employee contributions. In Florida, a charter school may be either a public or a private employer. As a public employer, the charter school may choose to participate in the state's retirement system; if it does, its employees become compulsory members of that system.

Some states (Colorado and Minnesota, for example) provide protected leaves of absences so teachers can leave their public school posts and teach in charter schools, but other states such as Georgia and New Mexico do not even mention a leave for their teachers. A few states require charter school teachers to be certified. Some states require demonstrated teacher support for the charter application or mandate that the charter school's governing board include teachers, according to the Institute for Responsive Education's analysis.

- **Admissions Policies:** Some states require schools to admit students by lottery; others require schools to give preference to those who live within geographic proximity to the school. In a few states, the law allows charter schools to limit admission based on the subject area focus of the school. Some states mention the need to maintain racial balance, says the Institute for Responsive Education.

- **Autonomy:** Autonomy is a critical issue in determining the rights and responsibilities of charter schools. The degree of autonomy can influence the way charter schools and local districts interact. The states with stronger legislation grant broad autonomy by waiving state regulations, offering a number of sponsorship options, and providing an appeals process when an application is denied. Some states grant a "superwaiver" which sweeps away volumes of red tape. In states with weaker legislation, charter schools must legally remain part of a school district and may be afforded no greater autonomy than traditional public schools. Often, however, the law does not make it clear exactly which rules are void and where potential liability lies — with the district or with the charter school. In *Charter Schools at the Crossroads*, Doug Thomas of the University of Minnesota's Humphrey Institute of Public Affairs described the approach in many districts as "don't ask, don't tell." With the exception of health and safety standards, to which charter schools must adhere, no one really defines which standards are waived, he contends.

- **Equity:** The advent of charter schools has raised concerns about educational equity. Many state laws do not address the issue of racial balance in charter schools, presumably expecting charter schools, because they are public schools, to abide by state and national laws in that area. However, some states say explicitly that charter schools must not violate state and federal nondiscrimination statutes. Some states (Michigan, for example) mandate that charter schools in school districts with court-ordered desegregation plans operate in accordance with the court order. Other states require charter schools to reflect the racial composition of the area in which the school is located.

Lawmakers considering charter legislation should pay attention to the impact of

charter schools on all populations of students, said educators and policymakers in *Charter Schools at the Crossroads*. Some who attended the Northwest Symposium for Charter School Policy expressed concern that charter schools will become racially isolated and may affect a district's court-ordered or voluntary desegregation plan. Doug Thomas predicted that there will be a "major desegregation case" around the choices made by charter school operators and customers. Joyce Harris, director of the Northwest Regional Educational Laboratory's Center for National Origin, Race, and Sex Equity, added: "The desegregation centers are very concerned about charter schools and their impact on desegregation. Charter schools open up a can of worms with respect to equity. Let's face it—you're going to end up with charter schools that are racially isolated." Others at the charter school symposium pondered the equity implications of, for example, a new alternative school in Oregon that is open to everyone but has an American Indian emphasis.

- **Failure:** Chester Finn, Bruno V. Manno, and Louann Bierlein, authors of *Charter Schools in Action: What Have We Learned?* raise another concern: What happens when a charter school fails? While some schools may be expected to fail, the authors say the situation will be bad if some children are stranded midyear or before graduation when their school closes, and even worse when failure involves malfeasance, corruption, abuse, or immorality among charter school staff or board members. "Yet we have not found a single state with a well-formed plan for dealing with these contingencies," these authors write. "Nor, in most cases, does a state even have a serviceable monitoring program for furnishing early warnings of schools in trouble, or a technical assistance capacity that can try to avert disaster by helping a shaky school solve its problems."

"By now it's clear that not all charter programs are created equal," contend Finn and co-authors Gregg Vanourek and Bruno V. Manno in the April 30, 1997, *Education Week*. "Many states have enacted weak, Potemkin-style statues that display the facade but not the reality of charter legislation, binding charter schools to most of the crippling constraints faced by conventional public schools." The authors argue that some of these constraints are "bureaucratic accidents," while others "are there on purpose, imposed by enemies of charter schools who, unable to strangle this infant reform in its crib, have done their utmost to keep it from growing big and strong."

> ***In the constantly changing leglislative landscape, the main trends seem to be: restricting the control of local school boards, helping with the initial start-up phase, and allowing greater fiscal freedom***

Despite the difficulty of passing expansive laws, however, almost half of the charter school states have managed to do so, notes Lori Mulholland in *Charter Schools: The Reform and the Research*. When substantial changes have been made to laws, they have usually expanded the law, regardless of its initial strength, she says. For example, Minnesota's relatively expansive law was amended to raise the number of possible schools from eight to 40, add an appeals process, and include colleges and universities as potential sponsors. Wisconsin's restrictive law was amended to lift the cap on the number of charter schools; and Georgia's restrictive law was amended so that school conversions could occur with only a majority of teachers in support rather than the two-thirds previously needed, she explains.

Moreover, from a legislative point of view, the landscape is constantly changing, and new ideas are starting to appear in bills in some state legislatures, according to Pipho. He says the main trends seem to be: restricting the control of local school boards, helping with the initial start-up phase, and allowing greater fiscal freedom. Extending original charters as they reach the end of their initial term will become a bigger concern in the next few years, Pipho predicts. Reauthorization will bring to the surface "controversies surrounding local boards accused of dragging their feet on initial charter approvals, boards turning down charters only to have the state board override the decision, and questionable actions by some charter operators that are being spotlighted by groups opposed to charters," he contends.

Looking down the road, Pipho says the evolution of charter schools will probably come in small steps, although some states will take those steps very quickly.

The results of these widely differing state laws have been a set of schools very different from one another. Some maintain close ties with sponsoring organizations; some serve special needs populations; others cater to a more mainstream audience. They use a wide variety of instructional programs and models.

"Freed from rules and requirements about such things as length of day, class size, curriculum, teacher training, and how subjects must be taught, charter schools have tackled a range of innovations, limited only by creative imagination and money," writes Mary Hager in the spring 1997 *America's Agenda*. "Some try to re-create the learning environment of the one-room schoolhouse by grouping all ages together, sometimes in a single room. Some place special emphasis on science and technology, or the arts, while others are geared to special populations, such as dropouts or minority students."

In their survey of 34 charter schools in seven states, which the authors believe are a "reasonable cross section of the charter school universe," Finn, Manno, and Bierlein say they found "distinctive but not weird education programs." Most of the charter schools they saw were either variants of "progressive" education, versions of traditional education, or interesting efforts to blend the two. "We haven't stumbled on any witchcraft schools or Klan schools," they write in *Charter Schools in Action*. "Perhaps the most 'far out' versions we have spotted are a couple of 'virtual schools' that use modern technology to bring instructional resources to students (including 'home schoolers') who are not physically on their premises."

A Study of Charter Schools, the recent study funded by the U.S. Education Department, bases its descriptions of charter schools on telephone surveys of 225 charter schools, supplemented by site visits to 42 of those schools. The study, which examines charter schools in operation in 10 states as of January 1996, finds:

- **Most charter schools are small.** About 60 percent enroll fewer than 200 students, while only about 16 percent of other public schools have fewer than 200 students. Differences are most striking at the secondary level, where almost 80 percent of charter schools enroll fewer than 200 students, compared with only 25 percent of secondary public schools.
- **Most charter schools are newly created.** About 60 percent came about because of the opportunity created by charter legislation, while the remainder were pre-existing schools that converted to charter status.
- **Charter schools often do not fit the traditional elementary, middle, and high school pattern.** Charter schools are much more likely to span grades K-12, or to combine elementary and middle schools, or middle and high schools. Only

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52 percent of charter schools fit the traditional grade-level configuration, compared with 83 percent of all public schools in the 10 charter states studied.

- **Charter schools have, in most states, a racial composition similar to statewide averages or have a higher proportion of students of color.** Massachusetts, Michigan, and Minnesota enrolled a much higher percentage of students of color than the average of all public schools in each of these states. California and Colorado, however, have a higher percentage of charter schools serving predominantly white students compared to all public schools in those states, although the differences are not great and could easily change as more charter schools open, the report says. Wisconsin, New Mexico, and Hawaii have too few charter schools to make reasonable comparisons to their state totals. (See Chart B on page 23 for state-by-state racial data comparing 1995-1996 charter school enrollments with the most recent comparable national data, from the 1993-1994 school year.)

Among the states studied, at least one in five charter schools serves predominantly minority students; one in three serves a diverse group of white and minority students; and somewhat less than one in two serves predominantly white students. Preliminary research, the report says, did not find evidence that charter schools engage in discriminatory admissions practices or "cream" desirable students from the population.

- **Charter schools serve, on average, a lower proportion of students with disabilities, except in Minnesota and Wisconsin.** Based on self-reports from the charter schools, the study notes that 7.4 percent of students enrolled in charter schools had received special education services before being enrolled, as compared with 10.4 percent of all students nationally who received such services. Telephone surveys revealed that 15 charter schools enroll more than 25 percent special education students, and two of those enroll 100 percent of students with disabilities, the report says. "Charter schools not specifically created to serve students with disabilities are sometimes reluctant to classify students as 'special education' because they believe every child should have an individualized learning program," the study notes. Therefore, determining which students are eligible for special education assistance or what services they should or do receive is difficult, the report adds.

- **Charter schools serve, on average, a lower proportion of limited-English-proficient (LEP) students, except in Minnesota and Massachusetts.** Twenty-one charter schools, however, serve student populations composed of more than 25 percent LEP students.

- **Charter schools enroll roughly the same proportion of low-income students, on average, as other public schools.** About one-third were eligible for the National School Lunch Program, about the same proportion as in all public schools.

CHART A — COMPARISON OF MAJOR POLICY ELEMENTS OF CHARTER SCHOOL REFORM LEGISLATION (25 STATES PLUS DISTRICT OF COLUMBIA, AS OF AUGUST 1996)

State/ year law passed	Charter approving agencies and sponsors	Appeal of charter denial	Cap on number of charters allowed in state and by district	Automatic waiver of most state education laws and regulations	Charter school may employ and/or bargain with staff independently	Charter school may be independent legal entity	Basic operational funding generally comparable with other schools	School operates under limited-term, performance-based contract
Alaska 1995	Local boards	No	30 state 1-10 district	No, may apply for waiver of local policies only	No	No	No	Yes
Arizona 1994	Local board, state board, and state board for Charter Schools	No, but may apply to multiple grantors	No caps	Yes	Yes	Yes	Yes	Yes, but long 15-year charter term
Arkansas 1995	State board (with local board and bargaining unit approval)	No	No caps	No, may apply for waivers	No	No	Yes	Yes
California 1992	Local boards	Yes, county panel	100 state, 10 district (21 in Los Angeles)	Yes	Yes	Yes	Yes, negotiable	Yes
Colorado 1993	Local boards	Yes, state board may order local board to grant charter	60 state (cap expires in 1997)	No, may apply for waivers	Yes	Yes	Negotiable	Yes
Connecticut 1996	state board/local board for conversions.	None specified 2 school district; 4 congressional district	24 state (cap expires in 1999)	No, may apply for waivers	Yes	Yes	Yes for new starts; conversions negotiate	Yes
Delaware 1995	Local boards; state board also for new start-ups	No	5/year state	Yes	Yes	Yes	Yes	Yes

*Source: *A Study of Charter Schools, First-Year Report*

CHART A — COMPARISON OF MAJOR POLICY ELEMENTS OF CHARTER SCHOOL REFORM LEGISLATION (25 STATES PLUS DISTRICT OF COLUMBIA, AS OF AUGUST 1996) CONTINUED

State/ year law passed	Charter approving agencies and sponsors	Appeal of charter denial	Cap on number of charters allowed in state and by district	Automatic waiver of most state education laws and regulations	Charter school may employ and/or bargain with staff independently	Charter school may be independent legal entity	Basic operational funding generally comparable with other schools	School operates under limited-term, performance-based contract
Washington, D.C. 1996	DC board, new charter school board, other entities as designated by DC Council	Subject to judicial review	10 districtwide in 1996, 20 per year thereafter	Yes	Yes	Yes	Yes	Yes, but long 15-year term
Florida 1996	Local boards and state universities in some cases	Yes, state board and judicial review	No state cap	Yes	Yes	Yes	Yes	Yes
Georgia 1993	State board (with local board and union approval)	No	No caps	Yes	May be negotiated; otherwise no	No	Yes	Yes
Hawaii 1994	State board	No	25 state	Yes	Not specified	Not specified	Yes	Yes, but non-renewal requires two-thirds vote
Illinois 1996	Local boards	Limited appeals process	45 state 15 each in 3 regions	Yes	Yes	Yes	Yes	Yes
Kansas 1994	Local boards	No	15 state 2 district	No, may apply for waivers	No	No	Not specified	Yes
Louisiana 1995	Local boards (state board for district-initiated proposals)	No	No state cap Variable local caps	Yes	Yes	Yes	Yes	Yes

CHART A — COMPARISON OF MAJOR POLICY ELEMENTS OF CHARTER SCHOOL REFORM LEGISLATION (25 STATES PLUS DISTRICT OF COLUMBIA, AS OF AUGUST 1996) CONTINUED

State/ year law passed	Charter approving agencies and sponsors	Appeal of charter denial	Cap on number of charters allowed in state and by district	Automatic waiver of most state education laws and regulations	Charter school may employ and/or bargain with staff independently	Charter school may be independent legal entity	Basic operational funding generally comparable with other schools	School operates under limited-term, performance-based contract
Massachusetts 1993	State board	No	25 state 2/city except 5 in 2 major urban areas	No	Yes	Yes	Yes May be less depending upon local conditions	Yes
Michigan 1993	Local boards, universities, community colleges	May petition to have issue placed on ballot for next election	No absolute cap; only 85 (rises to 150 by 1999) to be issued by universities	No	Yes	Yes	Yes, but capped at statewide average	Yes
Minnesota 1991	Local boards, state board (on appeal), colleges & universities	Yes, state board (if two votes on local board)	40 state	Yes	Yes	Yes	May be less in some cases	Yes
New Hampshire 1995	Local boards, state board on appeal (with pre-conditions)	Yes, state board	10/year until 2000 when cap expires 2/year	Yes	Yes	Yes	Yes, for conversions; new starts receive a minimum of 80% at the discretion of the Dept. of Ed.	Yes
New Jersey 1996	State commissioner	No	135 state (cap expires 1998)	No, regulations only may be waived upon request	Yes, for "new starts" No for "conversions"	Yes	No, 90% to 100% negotiated	Yes
New Mexico 1993	State board	No	5 state	No, may request waivers from state board	Not specified	Not specified	No	Not specified

Chart A — Comparison of Major Policy Elements of Charter School Reform Legislation (25 states plus District of Columbia, as of August 1996) continued

State/ year law passed	Charter approving agencies and sponsors	Appeal of charter denial	Cap on number of charters allowed in state and by district	Automatic waiver of most state education laws and regulations	Charter school may employ and/or bargain with staff independently	Charter school may be independent legal entity	Basic operational funding generally comparable with other schools	School operates under limited-term, performance-based contract
North Carolina 1996	Local boards, state university trustees, state board	Yes, state board	100 state 5 per year, per district	Yes	Yes	Yes	Yes	Yes
Rhode Island 1995	State board of regents (with approval of Commissioner and/or local boards	No	20 state	No, may apply for waivers	No	No	Yes	Yes
South Carolina 1996	Local boards	Yes, but state board may not actually grant charter	No caps	Yes	Yes, for "new starts" No for "conversions"	Yes	Yes	Yes
Texas (Campus) 1996	Local boards	No	No caps	Yes	Not specified	*Presumably yes*	Not specified *presumably negotiated*	No, no term specified
Texas (Open Enrollment) 1996	State board	No	20 state	Yes	Yes	*Presumably yes*	Yes	No, no term specified
Wisconsin 1993	Local boards only except Dept. of Public Instruction may grant to Milwaukee	No, except DPI may grant in Milwaukee	No caps	Yes	No, except Milwaukee	No, except Milwaukee	Negotiable	Negotiable
Wyoming 1995	Local boards	No	No caps	Not specified	Not specified	Not specified	Yes	Yes

CHART B — ENROLLMENT BY RACE FOR CHARTER SCHOOLS, 1995-96, AND ALL PUBLIC SCHOOLS IN THE TEN CHARTER STATES, 1993-94

State		Percentage of enrollment in charter schools and in all public schools in the state					
		White	Black	Hispanic	Asian or Pacific Islander	American Indian or Alaskan Native	Number of Students
California	charter	47.5%	12.0%	31.6%	7.9%	1.0%	34,015
	state	42.2%	8.7%	37.0%	11.2%	1.8%	5,268,501
Arizona	charter	53.5%	10.8%	20.2%	0.7%	14.8%	6,744
	state	59.7%	4.2%	27.6%	1.6%	6.9%	710,827
Michigan	charter	47.3%	43.9%	2.7%	1.4%	4.7%	4,639
	state	78.1%	17.1%	2.4%	1.4%	1.0%	1,523,793
Colorado	charter	82.1%	4.0%	11.1%	1.6%	1.2%	3,860
	state	74.1%	5.4%	17.1%	2.4%	1.0%	625,062
Minnesota	charter	56.9%	22.5%	1.5%	10.2%	8.9%	1,588
	state	88.7%	4.2%	1.7%	3.5%	1.9%	810,266
Massachusetts	charter	51.4%	12.3%	25.3%	6.1%	4.9%	1,822
	state	79.2%	8.1%	8.8%	3.7%	0.2%	878,798
Wisconsin	charter	81.1%	12.8%	4.1%	0.9%	1.1%	563
	state	84.3%	9.1%	2.9%	2.4%	1.3%	843,741
New Mexico	charter	41.3%	6.4%	40.3%	4.8%	7.2%	3,826
	state	40.6%	2.3%	46.0%	0.9%	10.2%	321,100
Georgia	charter	80.9%	15.5%	1.3%	2.2%	0.1%	1,892
	state	59.8%	37.1%	1.5%	1.4%	0.2%	1,234,984
Hawaii	charter	34.1%	3.7%	2.5%	58.4%	1.3%	671
	state	23.7%	2.6%	5.0%	68.4%	0.3%	180,430

*Source: *A Study of Charter Schools, First Year Report*

Do charter schools work? Do they raise the academic achievement levels of their students? Those are the essential issues with which education and policymakers are concerned. As the charter school movement matures and grows, solid evidence of student achievement will be a paramount issue.

To date, however, much of the evidence of charter schools' effectiveness has been scattered and anecdotal rather than comprehensive and scientific. On the national level, a 1995 study done by the U.S. General Accounting Office (GAO) found great diversity in the methods used to assess students and the specificity of outcomes described in charters. Lori Mulholland, who surveyed much of the existing research, says the GAO report questioned whether adequate baseline data were being collected to evaluate changes in student performance and whether data would be reported in such a way that the progress of different demographic groups could be tracked.

In *Charter Schools in Action*, authors Finn, Bruno, and Bierlein say they have not seen a single state with a thoughtful and well-formed plan for evaluating its charter school program. States and individual charter schools ought to be better prepared to agree on the evidence and criteria and make such judgments accordingly, they write.

This research picture is likely to change and improve over the next few years, however, as the results of a comprehensive study of charter schools, funded by the U.S. Department of Education and conducted by RPP International, a Berkeley, California-based policy research center, are published over a four-year period. While the first-year report, discussed in this publication, presents only descriptive information about charter schools for school year 1995-1996, later reports will contain results of achievement tests of a matched sample of charter and regular public schools.

Additionally, the U.S. Department of Education will spend more than $2 million to fund four research projects on special issues in charter schools (equity, accountability, fiscal management, and special education) and to fund three demonstration programs. Of particular interest to school board members will be a demonstration program to foster the cross-fertilization of ideas and practices among charter schools and other public schools. Department of Education officials said they expected to select researchers for these projects by August 1997; first-year reports should be published within a year.

At present, little or no systematic evidence is available to help determine whether charter school students are learning more, or less, than their regular public school counterparts.

At present, little or no systematic evidence is available to help determine whether charter school students are learning more, or less, than their regular public school counterparts, according to *Charter Schools: Legislation and Results after Four Years*. Author Buechler says the lack of evidence may not be a function solely of the youth of the charter movement. "Studies of charter schools in Minnesota and California suggest that, despite mandates in the legislation, many approved charter

schools have not developed rigorous performance expectations for students, nor have they specified precisely the methods by which performances are to be measured," he writes.

He adds that charter schools have the same problem that has plagued other efforts to evaluate the effect of school reform on student achievement: finding assessment instruments that enable fair comparisons across schools and measure what is important for students to know. "Traditional multiple choice tests make comparisons easy, but they probably do not provide an authentic measure of students' abilities to learn across disciplines, think creatively and critically, write well, solve problems, or apply what they have learned — the kinds of abilities many charter schools are designed to foster," he says.

One example of the difficulty of assessment can be seen in the Community Involved Charter School in Jefferson County, Colorado. In the spring of 1996, it posted standardized test scores that were among the lowest in the school district, according to a March 4, 1997, article in *The Denver Post*. An independent evaluator gave the school low marks even when judged against its own goals and said not enough students graduate. The evaluator also said, however, that tests used by the district are "incompatible" with the school's program, which encourages students to set their own learning goals and design major projects in six general areas, rather than take a certain number of courses to graduate.

While the availability of results is a problem, an even more pressing problem may be the politicized nature of much available charter school research. Frequently, the advocates, or opponents, are the ones conducting the research. "Until recently, many independent researchers at colleges and universities and the major research organizations shied away from the politically charged subject, which has often been linked with vouchers and privatization," writes Linda Jacobson in the November 6, 1996, *Education Week*. "The field was left primarily to supporters or critics of the charter movement."

Jacobson notes that some observers have already raised concerns about the U.S. Department of Education study because some researchers on the project are strong advocates of charter schools. Her article states that the president of RPP International said he had worked hard to design a neutral study strong enough to withstand the biases of a few members of the research team.

Gary K. Hart and Sue Burr, sponsors of California's charter legislation, concur that "the impact of charter schools should be carefully and objectively evaluated." Writing in the September 1996 *Phi Delta Kappan*, they say: "We emphasize objectively because we have noted a predilection among researchers to approach such scholarship with a noticeable bias. Some hostile university researchers believe that charter schools are inherently unfair or are just a subtle attempt to undermine public education. On the other end of the spectrum, conservative think tanks, looking to validate any kind of free market venture, bring a positive bias to any research on charter schools."

They suggest that teachers and charter schools should be evaluated against the expected outcomes articulated in state law. In California's case, those outcomes are: Do they improve student learning? Do they increase learning outcomes for all students, especially those identified as low achievers? Are they cost effective? Do they encourage the use of innovative teaching methods? Do they create new professional opportunities for teachers? Do they provide parents and students with expanded choices within the public school system? "Only after these questions are carefully and objectively answered will we have an accurate assessment of charter schools' promise for the future of public education," they contend.

Another problem is the limited scope of the research. In *Charter Schools: The Reform and the Research*, Mulholland notes that much of the

research to date has focused on charter schools in a particular school or district, city or state. Since the character of charter schools varies widely, an examination of charter schools in a particular area may not have broader implications.
"Unfortunately, when researchers are not aware of the diversity, conclusions may not be presented in their appropriate context," she says.

Further, charter schools have a natural self-selection bias, Mulholland notes. The fact that everyone has chosen to be there has special bearing on research outcomes and may make comparisons between students in charter schools and students in regular schools problematic, she explains. She adds that methodology problems or ideology may skew results and suggests that reviewers of research examine research methods carefully and ask for additional information where necessary.

But while the jury is still out on the effectiveness of charter schools, and no single study has yet attempted to review all the charters, some state-level evaluations offer evidence of both successes and concerns.

At the request of the Minnesota state board of education, the Center for Applied Research and Educational Improvement evaluated Minnesota's 16 operational charter schools. The study, released in February 1997, reported a number of positive findings:

- Compared with other public schools in the area, the typical Minnesota charter school has significantly greater racial diversity, more students with disabilities, more students who are limited English speakers, and more students who are eligible for free and reduced-price lunch.
- Parents report being more involved with charter schools than they were with their former schools; a greater percentage participate in decisions regarding curriculum, policy development, and budgeting. A full 90 percent of parents give the charter school their child attends an A or B, while only three percent give the school a D or F.
- More than 25 percent of the students at charter schools report that they do more homework and spend more time doing recreational reading than at their previous schools.
- While the student population at charter schools includes a higher percentage of students "at risk," their attendance levels were the same as at other public schools and suspensions were lower than reported by other schools.

The study also noted a number of concerns:

- Different school districts seem to interpret the requirements for oversight and accountability differently. Only nine of the 16 operating schools completed an annual report of student achievement last year.
- Students at charter schools had a greater involvement in crime than those at other public schools and spent less time in extracurricular activities.

In Massachusetts, the Pioneer Institute for Public Policy conducted a survey of 15 charter schools, serving 2,565 students, at the end of 1995-1996. "The data we have compiled tell a story of remarkable success, especially considering that these new schools have had to struggle through the obstacles and growing pains that afflict all start-up operations," the report says. The survey is based on reports filed with the state, a questionnaire circulated to charter school managers, and mail surveys of charter school parents and students. The report, based on 874 completed surveys, pointed to the following areas of success:

- About 80 percent of respondents to the Institute's parent/student survey report

that their charter school experience was superior to that in their previous schools.

- Seventy-five percent of parents report that their child's interest in learning has increased since entering a charter school, and 70 percent of students confirm that their interest has grown.

- Ninety-five percent of currently enrolled charter students plan to return to their new schools next fall.

The report also notes that, on average, eight percent of the students enrolled in charter schools left before the end of the school year. "Student departures ranged from a low of one percent to a high of 37 percent," the report says, adding that two of the schools with the highest withdrawal rates are specifically targeted to high-school drop-outs, so their high withdrawal rates were not unexpected.

A study from the Hudson Institute, although it does not contain concrete data on academic achievement in charter schools, reveals that charter school students, teachers, and parents are well satisfied with the education offered. They are less satisfied, however, with food service, sports, the school building, transportation, and other non-academic issues.

The Hudson Institute study, *Charter Schools in Action*, is based on surveys and interviews garnered from 50 charter schools enrolling some 16,000 students in 10 states. Nearly 3,000 parents and 5,000 charter school students in grades five and above completed survey forms.

More than two-thirds of parents say class size, school size, and individual attention by teachers are "better" at the charter school than at the school their child would otherwise attend, according to *Charter Schools As Seen by Those Who Know Them Best: Students, Teachers, and Parents*, one of several Hudson Institute charter school reports. More than three-fifths of parents say teaching quality, parental involvement, curriculum, academic standards, extra help for students, and discipline also are "better" at the charter school. The children agree: Nearly 61 percent of students say their charter school teachers are "better" than those at their previous schools, and half (49.9 percent) of students say they have "more" interest in school work.

The study notes that, across the board, both children and parents report that students are faring better academically at their charter schools than at their former schools. Among children performing "poorly" at their previous school, nearly half are now doing "excellent" or "above average" work, their parents say, while 16 percent are still performing below average. After enrolling in charter schools, the number of students doing "excellent" or "good" work rose 23.4 percent for African-Americans and 21.8 percent for Hispanics, the report notes; low-income students of all races made similar gains.

"Of course, it's one thing for charter school students to feel they are getting a good education and another to demonstrate it (on a statewide assessment, for example)," the report says, adding that test scores, now being collected in various parts of the country, will be an important part of the story. "Meanwhile, another chapter of the story is being written by families and teachers who are choosing these independent public schools, reporting much learning within their walls, and sticking with them," the report concludes.

A Case Study of San Diego Charters

To a great degree; the experiences of the San Diego (California) City Schools with charters highlight many of the complex issues that other urban districts may face when they approve charter schools.

One of the first districts in California to sponsor charter schools, San Diego is the eighth largest urban district in the nation and the second largest, after Los Angeles, in the state. Its 133,000 school children are a microcosm of America's increasingly diverse society: 16.8 percent are African American, 34 percent are Hispanic, 8.1 percent are Filipino, 7.1 percent are Indochinese (from Vietnam, Cambodia, and Laos), 2.5 percent are Asian (from China, Japan, Korea), and 29 percent are white.

San Diego has six charter schools, serving a total of 4,500 students, or 3.4 percent of the total school population. A seventh has won approval and will open in fall 1997. The National Education Association, together with San Diego State University, is helping develop a community-based charter school that is expected to open in 1998. The existing charter schools have banded together in a formal consortium and hold regular self-help and technical workshops with the assistance of the San Diego Chamber of Commerce Business Roundtable for Education.

The school district has been generally receptive toward charters, although the school board revoked the charters of two schools. It closed the Windows School in 1996 over matters related to fire codes, earthquake standards, and other facilities issues. The closing of the Johnson Elementary/Urban League Charter School was a more complex issue. San Diego's Urban League had collaborated with the Johnson Elementary School to convert the school to charter status as part of a strategy to significantly upgrade the academic achievement of San Diego's African American students, writes Eric Premack in the September 1996 *Phi Delta Kappan*. But in late 1996, the board voted unanimously to revoke the charter, alleging that the school had violated California law by asserting its legal independence from the district and retaining its own legal counsel. That revocation, Premack says in an update on the Internet, may signal the start of a major battle over a fundamental issue in California state law — whether a charter school may be constituted as a legal entity independent of its sponsor district. He adds, however, that the disagreements over the school may be part of larger political conflicts as well: The school district and the Urban League have been at odds for nearly two decades over desegregation and student performance.

The Johnson Elementary School has now reverted to regular public school status, although the Urban League has requested an opinion from California's attorney general on whether a charter can be considered a separate legal entity.

The dispute, Premack adds, may lead to renewed calls to protect charter schools from high-level board politics by clarifying California's charter process, adding an appeals option to the revocation process, and allowing entities other than school districts to grant charters.

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Reviewing overall academic achievement in the charter schools, School Board President Ron Ottinger says the academic results from the district's annual standardized tests have been "mixed," with some schools near the bottom, and some schools showing improvement. "I expected the results to be mixed," he says. "When you're asking educators to take over operations as well as curriculum, there's bound to be some growing pains." Further, he adds, the district does not yet have a scoring system for student portfolios, an important part of some charters' assessment systems.

Overall, he sees many positives in the city's charter schools: smaller classes and more personal attention, more structured learning environments, school uniforms, and a greater use of technology. Additionally, he says, parents and faculty have been more involved in governance. Innovation in staffing has been one of the best features of charters, he adds. Freed from collective bargaining constraints, the charters have been able to hire teachers who best match the school's curriculum, and "we see teacher evaluations being tied more closely to student performance," Ottinger says.

The O'Farrell Community School, which has received nationwide publicity, is one charter school that seems to be making important contributions to urban education. Serving a middle-school population of 1,400 African American, Filipino, Hispanic, Asian, and white children, O'Farrell opened in 1990 as a public school. (The school building in which O'Farrell is located had once housed a junior high school and, more recently, was the home of a popular magnet school for the creative and performing arts.) Most of its students are poor: O'Farrell is a Title I school (68 percent of the students receive free or reduced-price lunches), and seven out of 10 come to school performing significantly under national median standards.

According to Bob Stein, the school's CEO (chief educational officer), the school — built on the principles of teacher and community empowerment, interagency collaboration, and interdisciplinary teaching — had generally experienced positive relationships with the district and had made great progress for the first three years. But, as he writes in the September 1996 *Phi Delta Kappan*, three events occured that led the school to apply for charter status. First, the district's counselors and psychologists filed a grievance against the school, charging that O'Farrell did away with those positions to hire more teachers. (That issue was later resolved in mediation.) Second, the district adopted a policy preventing schools from using funds to rent off-campus facilities for meetings and retreats. Third, the school had a "running battle" over state credentialing laws related to middle school teaching. O'Farrell had difficulty getting the state waivers promised under California law, and had constant problems with the district-level credentialing staff in the central office, Stein writes.

Stein thought he could foster his dream of a high-quality education for his students more effectively outside the system, and O'Farrell became California's 48th charter school in January 1994. Educationally, the school sets very high expectations, both academically and in terms of behavior. Students are broken up into "families" of 150 students each; each family gets the same advanced curriculum. To meet the broader social and economic needs of the students and their parents, the school has five social workers, three welfare eligibility workers, staff on the premises from 25 social service agencies and a thrift shop, Stein says.

Stein says one of the chief benefits of charter status is the flexibility to hire the teachers the school wants, "teachers who believe teaching is still a verb, who believe that all children are capable of learning and should not be kept out of power classes." He adds: "I'm not saying we have 75 of the best teachers in America, but we are not subject to the district's assigning us teachers no other school wants or giving us the top five on the seniority list. We have the right to peer selection: Parents and teachers can interview the people we want."

In terms of academic achievement, Stein says

O'Farrell's charter states that 80 percent of children who stay in the school for three years will be able to enter any high school at the college preparatory level. School officials were puzzled by the fact that, despite extensive reform strategies, O'Farrell students were slightly below district means in reading, language arts, and mathematics. Maintaining that the district's standardized test was not aligned with either the school's or the district's curriculum, O'Farrell staff members said they believed a better indicator of school success would be students' high school performance.

So, Stein asked an independent evaluator from the San Diego schools to assess how well students in the class that had started at O'Farrell in 1992-1993 (the year before it received charter status) were faring in 10th grade — a pivotal year for many students. The analysis, conducted in fall 1996, focused on the 131 O'Farrell graduates who attended nearby Morse High School.

The study found:

- O'Farrell students were enrolled in more rigorous and advanced courses when compared to other students in the same grade.
- O'Farrell students were performing at higher levels within those courses, as demonstrated by letter grade distributions. For example, during the second semester of the ninth grade, 77.7 percent of O'Farrell students earned grades of "C" or better in English, compared with 60.3 percent of their peers. In second semester math, 75.2 percent of the charter graduates earned grades of "C" or better in math, compared with only 53.8 percent of their peers.
- In a standardized test given during 1995-1996, 53.6 percent of the O'Farrell graduates scored at or above the publisher's median in reading comprehension, compared with 43.0 percent of their peers. Similarly, in mathematics, 66.3 percent of O'Farrell graduates scored at or above the publisher's median, compared with 56.3 percent for their peers.

The evaluator concluded: "These are very positive findings that reflect on how well these students are prepared to succeed in high school, something the school has held all along as its primary goal. Although O'Farrell students are not showing immediate, consistent or dramatic improvement in test scores, there appears to be an undeniable cumulative and long-term effect when examining measures of success in high school."

While Stein is happy with the students' academic progress and with other statistics — the school has the fifth lowest suspension rate of 22 middle schools and an average daily attendance rate of 96 percent — he is not always satisfied with the charter's relationship to the district. He says the district says it believes in cooperation but does not always display cooperation in practice. "The district is playing bumper cars with reform — very few dollars are at the discretion of the school site or rest with individual schools," he charges.

While the O'Farrell Community School is working well, other charters have had their share of growing pains. Although district staff did not support it, the school board nevertheless approved a contract for The Charter School at Harriet Tubman Village, a K-6 elementary school based on the teachings of Rudolf Steiner and his Waldorf model of education. Soon, however, seeing that the school was having a difficult year, the district asked the WestEd Policy Support Group, part of a federally funded agency that serves education communities in Arizona, California, Nevada, and Utah, to study the situation. "Tubman's case is an important one, one that helps those involved in the charter school movement better understand the complexities involved in starting a new charter school," states the report, *From Paper to Practice: Challenges Facing a California Charter School.*

Drawing its information from a wide variety of sources, including extensive interviews with parents, teachers, board members, and others, the report found a number of problems with the school and its relationship with the district. It said, for example, that lines of authority and liability between charter schools and the district were ambiguous, and also found that the board's review and approval process did not produce a charter that is clearly consistent with state legislation or the district's requirements.

The report notes that the ambiguity in the California law raises important questions: To what extent can charters really create ground-breaking models when districts maintain control during the approval process and have oversight authority? How can districts allow a certain element of risk while avoiding the natural tendency to respond to mistakes or conflicts with blanket policies or come to conclusions about a school's success based exclusively on traditional public school norms?

The WestEd report, Ottinger says, helped the school board decide to keep the school open, but with changes in leadership. The Tubman School has since requested to expand to include the seventh grade, a request the school board seems likely to grant.

At present, the district is drafting a proposed revision of guidelines that affect charter schools. These guidelines clarify the rules under which charters operate and also protect the district from liability, says Roxie Knupp, program manager in the district's Title I Grants and Charter Schools Office. For example, charter schools using non-district facilities that may not meet earthquake standards will need "hold harmless" agreements and building liability insurance naming the school district as an additional insured party. Another guideline will make it clear that charter principals who use district-owned buildings cannot make changes to the property at will; they must first explain what changes they intend to make and work cooperatively with the district, she says.

"The charter school folks feel they have to jump through too many hoops, but there are liability issues," Ottinger points out. If a charter goes under, the district — not the charter's founders — are responsible for the financial loss, he says.

After the district's senior management council (which also acts as the charter review committee) approves the guidelines, the guidelines will go to all charter principals for discussion, and then back to the council before being sent to the school board.

Knupp also says accountability may become a more important issue between the district and its charter schools. The school district, she says, has recently adopted an accountability system that holds schools accountable for student achievement. "There will be variety of opinions about whether charters need to adhere to that system absolutely or develop a system that is similar to or aligned with the district's," she says.

Although there have been growing pains, Ottinger says he believes the charter experiment in San Diego has been a valuable one, and he would like to see enough charters operate to create a critical mass from which to learn. "Having charter schools pushes the envelope and allows everyone to see what might happen when you do free up schools," he contends.

THE IMPACT OF CHARTER SCHOOLS ON SCHOOL REFORM

The charter school movement is still too young to assess its impact on school reform and student achievement. "The most significant effects so far — and what many consider the movement's real purpose -- are the so-called secondary or ripple effects," writes James N. Goenner in the September 1996 *Phi Delta Kappan*.

Goenner, senior associate director of the Charter Schools Office at Central Michigan University, says there is evidence the traditional school system is already responding. For example, he notes, a local superintendent was quoted in the *Grand Rapids Press* as saying, "We have to work hard to please our customers and make our programs and services so good they don't want to leave us."

California's Premack writes that charters are forcing changes at some central administrative offices. In a *Phi Delta Kappan* article, he says that Joe Rao, a member of the Los Angeles district's school reform unit, noted that the district had removed several principals from its non-charter schools at the end of the 1994-1995 school year. Rao believes the district's increased scrutiny of site leadership is a direct result of the charter experience, Premack writes.

School board members and central office administrators, adds Premack, are finding that charter schools can be a "powerful tool" to develop programs that would be difficult to start in the regular system. He says board members in the Oakland (California) Unified School District mentioned that factor when they approved two new charter schools — one that would focus on the needs of Native American students and the second, developed by a nonprofit organization, that would focus on service learning.

In testimony before the U.S. House Committee on Education and the Workforce on April 9, 1997, Scott Hamilton, associate commissioner of charter schools for the Massachusetts Department of Education, said charter schools have begun to reshape the educational landscape in that state. "Already, the competition for charter schools has helped reform-minded education leaders in Boston and other communities implement changes in regular public schools. Charter schools are pursuing innovative methods of helping students learn that can be replicated in other schools — ranging from the jury assessment system, a series of year-end oral examinations at City on a Hill — to the 'Kidlab' at Neighborhood House, a laboratory merging the learning of science with art."

He says that other promising practices in charter schools include a longer school day and year, longer class periods, school uniforms, more homework, individualized approaches to learning, character education, foreign language instruction at early grades, extraordinary teacher autonomy, and strict codes of conduct. "These and other innovations in teaching, testing, governance and finance, which are at the center rather than the periphery of charter school designs, doubtless will be borrowed and improved upon by reformers in other public schools," he says.

William Windler, senior consultant in school improvement with the Colorado Department of Education, indicates that he is similarly optimistic. In the September 1996 *Phi Delta Kappan*, he

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writes: "Charter schools in Colorado — in and of themselves — have increased the number of public school choices available, have brought a new level of competition and have spurred districts to develop more attractive alternatives. For example, the Boulder Valley School District, which lies north and west of Denver, has implemented the concept of focus schools that have a special identity created as a result of an application process similar to that for charter schools."

He adds that, as a result of consumer and parent demand, "districts are consciously and purposefully beginning to respond by developing more and more schools of choice and by becoming more and more receptive to the charter school idea."

In *Charter Schools: Legislation and Results after Four Years*, Mark Buechler writes that charter schools in Colorado and other states with strong laws are "experimenting with new types of decision-making arrangements, teacher contracts, salary structures, budgets, organizational structures (non-profit, for-profit, cooperative), and forms of collaborations with organizations such as businesses, museums, governmental agencies, and community groups." Charter schools could prove more innovative in these areas than in curriculum or instruction, he notes.

The small size of charter schools could be a problem in transferring ideas to a school district, however, writes Alex Medlar, a policy analyst for the Education Commission of the States, in the March 1996 *American School Board Journal*. Their size could diminish the schools' impact on nearby school systems because their capacity is too limited to make a dent in public school enrollment and because lessons from these schools might be hard to apply in a larger setting. Further, charter schools' isolation from other schools and other districts might prevent their advantages and lessons from being transferred beyond their walls, he says.

Chris Pipho notes that good ideas learned from charter schools will have a difficult time influencing the education establishment, as do many other reforms. In a March 1997 *Phi Delta Kappan* article, he says that when charters are viewed as an outside force, the new ideas they produce may gain even slower acceptance. Further, says Pipho, "the free-market principle that competition will force the existing structure to change will probably remain an elusive goal for some time in the future — that is, unless the education establishment starts sponsoring large numbers of charter schools or the legislature mandates sweeping changes."

Gary K. Hart and Sue Burr, writing in the September 1996 *Phi Delta Kappan*, say that, while charter schools represent powerful tools for systemic change and can spur innovation in traditional schools, they should not be viewed as a panacea for all that ails our schools. They are not the only settings in which public education can thrive. "No one in the education reform arena has a monopoly on innovation, effectiveness or virtue," they write.

Teacher Unions' Response to Charter Schools

Because charter schools are often freed from collective bargaining agreements, teacher unions have frequently been among the charter school movement's most vocal opponents. More recently, however, the American Federation of Teachers (AFT) and the National Education Association (NEA) have cautiously embraced charters.

"In most states, teacher unions have tried to prevent the charter school concept from getting a real test," contends Joe Nathan in *Charter Schools: Creating Hope and Opportunity for American Education*. "The idea threatens their power and their concept of how public education ought to operate."

Nathan says a federally funded study of the first 11 states to adopt charter legislation found that "none of the charter school bills passed the state legislature without controversy, and much of the opposition came from teacher unions. Unions generally opposed charter schools because the laws shift power, particularly in the areas of funding and personnel, away from the district and the master contract to the individual schools."

Although other groups such as the NAACP have also opposed charters, the teacher unions have had the money and the political clout to make their voices heard. In several of the 15 states that have considered but not passed charter legislation, charter advocates blame failure directly on teacher unions, writes Monika Guttman in the spring 1997 *America's Agenda*. "Even in the charter legislation that was finally passed in many of the 25 states and the District of Columbia, particularly in the earliest proposals in 1992 and 1993, provisions were inserted specifically to quell union opposition. In only 10 states do the charter laws allow noncertified individuals to teach at charter schools. In only half do charter schools have legal autonomy where teachers are employees of the individual school and not the local school district," she says.

In some states, union compromise meant limiting the number of charter schools allowable under the law. Delaware's bill permits only five charter schools, for example. Some states also mandate that a percentage of public school teachers approve the charter petition. In Arkansas, where only existing public schools may apply for charter status, the law requires that the charter petition be approved by the local teacher union if the school district has a bargaining agreement with that organization.

California's law requires that any charter petition include the signatures of 10 percent of the teachers in the school district or 50 percent of teachers at a given school site. Interestingly, in drafting the California law, its sponsors say they used the writings of the AFT's Albert Shanker. "Because we both had great respect for Shanker's ideas on education reform, his writings gave greater credibility to the concept of charter schools and spurred us on," write Hart and Burr in the September 1996 *Phi Delta Kappan*. Ironically, the authors note, "opposition to charter school legislation among some local teachers unions affiliated with the AFT has been fierce."

However, as the charter school movement has blossomed, some teacher union leaders and mem-

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bers have changed their views. "We're not opposed to charter schools," says AFT spokeswoman Janet Bass, quoted in the *America's Agenda* article. "We just want to make sure they are of high quality in terms of the learning environment. We also don't think they're the magic bullet that will solve all problems. We think they're worth looking into."

The AFT's August 1996 report, *Charter Schools: Do they Measure Up?* endorsed charter schools as a useful vehicle for reform, but identified some problems that may keep charter schools from fulfilling their promise. The report examines charter legislation in 25 states, using AFT criteria to evaluate the likelihood that the laws will produce quality schools and/or serve as examples of how public school systems should operate.

The AFT found:

- Not all states require that charter schools develop programs consonant with state and/or local standards; nor do they require that schools participate in the state accountability system. Without school participation, it will be difficult to hold the schools accountable for results not already achievable in existing schools, the report says.
- Some schools are chartered by the state or another entity not directly connected to the local district. The likelihood of those schools influencing school district policies and providing models for change is remote, the report notes.
- The reporting systems required in legislation in virtually all states are insufficient to determine whether students in charter schools perform as well or better than their counterparts who remain in public schools.

For states drafting new legislation or amending older charter laws, the AFT recommends that charter schools be based on high academic standards for all students and suggests that charter school students take the same tests as other students in the state and district. It also recommends that charter schools be required to hire certified teachers and that charter school employees be covered by the collective bargaining agreement. Further, the AFT says charter schools should have the approval of local school districts and should be required to make information available to the public.

The NEA has gone further than the AFT: It launched a charter school initiative through which it will sponsor six charter school start-ups (one each in Hawaii, California, Arizona, Colorado, New Jersey, and Connecticut). Its technical assistance team will help school founders in areas such as assessment, facilities, philosophy, and fiscal practices. Teachers at the charter schools in states with collective bargaining will have the same benefits and job protection as other teachers, but the schools will be free to experiment with instruction, assessment, and hiring. The initiative will also assess the impact of charter schools: An independent team from the University of California at Los Angeles will conduct research which will then be shared with a national audience.

NEA Charter School Principles are: (1) school admission must be open to, and meet the needs of, all students; (2) staff members, parents, and other stakeholders must be involved in the design and governance of the school; (3) teachers must be certified professionals; (4) schools must submit to rigorous fiscal and academic accountability; and (5) charter schools must share what they learn in order to promote improvements in other public schools.

In the December 4, 1996, *Education Week*, NEA President Bob Chase criticized "permissive" laws in states such as Massachusetts, Michigan, and Arizona. "These permissive charter laws allow any-

one to found a charter school, including those without previous experience as teachers or school admininstrators," he says. "They allow charters to hire uncertified teachers and maintain restrictive admissions policies. And in a number of states, charter laws fail to provide for even the most rudimentary public oversight and accountability."

Chase says the NEA's own charter school initiative is "premised on principles that should be at the heart of every sound charter school law."

Some critics claim several problems exist with the teacher unions' current public positions. For one thing, many of the state and local associations do not follow the national leaders. While nationally the unions have become more supportive, their state affiliates sometimes work hard to block laws. For example, the Milwaukee Teachers Union has filed suit to dismantle Wisconsin's charter law on a technicality, according to the Center for Education Reform's state-by-state summary of school reform in the United States. The union charged that the district's approval of Highland Community Charter School, and charter school provisions in the state generally, are unconstitutional because the charter law was attached to a budget bill and not passed as a separate education bill. In 1996, the Colorado Education Association fought an increase in charter school funding, although the NEA will open a charter high school in that state in late 1997.

In Texas, on the other hand, the Houston Federation of Teachers is helping a state-sponsored charter school that will be independent of the district and run in conjunction with the Tejano Center for Community Concerns, reports Nathan. (The 1996 Texas law, amended in June 1997, allows local school boards to establish "campus" charter schools and now permits the state board of education to grant up to 100 state-approved charter schools, a major increase over the law's initial cap of 20 state-sponsored schools. The state board may approve an unlimited number of such schools if at least 75 percent of the students they serve are dropouts or are at risk of dropping out.) Union President Gayle Fallon, a supporter of charter schools that do not have to be sponsored by local districts, will hold a seat on the school's board of directors, Nathan says.

Other critics say unions may be simply paying lip service to the charter concept and hiding their real concerns — the continued membership growth and strength of the union. In the April 30, 1997, issue of *Education Week*, Finn, Vanourek, and Manno call the teacher unions, and others in the educational establishment, "false friends" of charter schools because they "wave the banner of charter schools even while favoring near-clones of conventional schools that must obey most of the usual rules."

In any case, it has become clear that states that have not yet passed charter legislation will need to work more closely with the teacher unions. "Dealing with the unions will be the key to future legislation in Montana," said Robert Anderson of the Montana School Boards Association at the 1996 Northwest Symposium for Charter School Policy. "The collective bargaining issues haven't been resolved."

In most states with charter legislation, local school boards have a major role in approving or denying charter petitions. (See chart A on page 19-22.) Massachusetts is the only state that gives local boards no role: The state board of education is the only chartering authority. In New Jersey, charter applications are made to the state commissioner and the local school board; the commissioner has final authority, although both the local school board and the charter applicant can appeal to the state board of education. In its analysis of 25 state charter laws, *A Study of Charter Schools* found that, in 12 states, the local school board is the only body that can grant a charter, although three of those states allow an appeal to a higher authority. In the District of Columbia and the remaining 13 states, other bodies — such as the state board of education, a state chartering authority, or a college or university — may also grant a charter, the report says.

Many local boards have embraced the charter process, not only willingly sponsoring charters but initiating them as well. For example, the Duluth, Minnesota, public school system advertised nationally for proposals to operate a public elementary charter school that is research- and performance-based, starting in the fall of 1997. Some board members have sought stronger laws. In Rhode Island, the state board gave preliminary approval to a charter application from the city of Woonsocket, but some local school board members said a publicly supported independent school could not be independent enough under current law, according to an article in the January 22, 1997, *Education Week*. Warning that the state charter law could eventually cause major obstacles for the group hoping to start the new school, Woonsocket school board Vice Chairman John Ward contacted state representatives to see about introducing an amendment to the charter law that would allow school organizers more autonomy, the article states.

Many critics continue to accuse school boards of putting impediments in the way, however. In *Charter Schools in Action*, Finn and his co-authors note that three states (Arizona, Massachusetts, and Michigan) of their seven-state sample had options other than board sponsorship, "and those three rank among the most dynamic in terms of charter school growth and diversity." They report that the overwhelming majority of the 15 schools surveyed in those three states said they would not exist in anything like their present form had they been forced to seek local board sponsorship.

"Support for charter schools is by no means unanimous among local board members, and many feel hostile or threatened by the charter concept, at least initially," writes Premack in the September 1996* Phi Delta Kappan.** ***"Significant numbers of board members, however, are coming to recognize charter schools as a new way to develop and manage schools and are finding that a well-developed charter gives school boards the ability to focus on student achievement in a much more powerful fashion than is possible within the confines of the traditional system."

"Except in a few jurisdictions where charter

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schools are commonly sponsored by the state itself (such as Massachusetts and Arizona), or by universities (Michigan), people seeking charters must invest immense amounts of time and energy in trying to convince local school boards to approve their proposals," the authors note. "The political battles can be so intense and protracted that, after winning their charter, the school's founders find themselves weary, frazzled, and with just a few weeks before the school is due to open. Although we do not doubt that some local board involvement is a good thing, even those charter schools that are ultimately sponsored by the local board frequently wind up in a strained (if not openly hostile) relationship with it. And in situations where local boards have the upper hand — as in California and Colorado — an awful lot of resources are expended, sometimes fruitlessly, in the quest for charters."

We have the federal government telling us one thing and the state another. We are trying to get some clarification on what is required of a charter school in South Carolina," says John Williams, community relations manager, Beaufort County School District.

In many states, of course, boards do not have the final say, and conflicts between the local board and the state can sometimes lead to court battles. In South Carolina, for example, legislation requires that the racial composition of charter schools match within 10 percent the racial makeup of the district in which the charter is located. Citing concerns about racial balance and enrollment, the Beaufort County school board — which has been operating under a voluntary desegregation agreement and reports enrollment numbers to the U.S. Office of Civil Rights — rejected the application of the Lighthouse Charter School. The state board of education, however, overturned the local board's decision and approved South Carolina's first charter school, although the state still required the school to meet minority enrollment requirements. The school board refused to grant the charter and filed suit in the South Carolina Circuit Court, where litigation is in process. To further complicate matters, the state's Attorney General, in a non-binding decision, argued that the charter law's racial requirement is unconstitutional. "We have the federal government telling us one thing and the state another. We are trying to get some clarification on what is required of a charter school in South Carolina," says John Williams, community relations manager, Beaufort County School District.

Colorado also has an appeals process to the state board of education. If the state agency determines that denial of the charter petition is not in the best interests of students, the school district, and the community, the state board can ask the local board to reconsider its decision. If a local board denies a charter application a second time, and if the state board determines that denial was harmful, it can order the local board to grant the charter.

The Denver school board, however, is challenging the constitutionality of the law, questioning whether the state legislature had the right to grant the state agency that power in the first place. Patrick Mooney, an attorney representing the Denver school board in a controversial case involving the Thurgood Marshall school, a charter school whose application the school board has twice rejected, says Colorado's constitution gives local school boards specific authority for instruction. The state board's ability to tell a local school board that it must approve a charter offering a certain kind of instruction is clearly an incursion into local authority, Mooney maintains. The school board has asked the Court of Appeals, which had remanded the Thurgood Marshall case back to the state board of education, to examine the constitutional issues, he says.

William Windler, a senior consultant with the Colorado Education Department, says, however, that "the appeals process was directly responsible for helping six of the 29 approved charter schools

to get started after the first appeal." In the September 1996 *Phi Delta Kappan*, he notes that "Since 1993 the state board has heard some 29 appeals and remanded 14 back to local boards for further consideration. Six of the 14 are still in the process of being renegotiated at the local level."

Windler suggests that school systems that continue to resist the charter school idea may find that new or modified legislation reduces their role in the charter process. The Charter Schools Study Commission in Colorado recommended that the state board be allowed to sponsor charter schools. And, in California, the Little Hoover Commission, after a six-month study of charter schools, recommended that the existing charter law be modified to allow sponsors other than the school board to grant charters and to allow charter schools to become separate, legal entitites. "It is ironic that those educators who continue to resist the idea of charter schools simply encourage policymakers from both political parties to consider laws that are more supportive of this innovative idea," Windler contends.

In fact, some statutes are being drafted that would constrain a local school board's discretion so that a charter must be granted to any group that can meet established criteria, explain Marc Dean Millot, Paul Hill, and Robin Lake in *Charter Schools: Escape or Reform?* "Once a charter is granted, a school's survival would depend on whether the parents and teachers who run it deliver the kind of instruction promised and whether, on objective measures, students are learning," they write. The authors contend a move toward objective criteria "protects qualified applicants from local boards that would deny charters merely to avoid competition, even while it protects the public from unqualified charter providers."

Some boards have already had to face the issue of charter operators who did not live up to expectations. Although the charter school movement is still young, a number of charter schools have closed because of financial problems or mismanagement or had their charters revoked by school districts. In Arizona, a state grand jury indicted the founder of Citizen 2000, a bankrupt Phoenix charter school, on 31 counts of theft, fraud, and the misuse of $179,000 in public money, according to the *Arizona Republic*. In Los Angeles, the district closed Edutrain, a charter school for troubled teenagers, after auditors found discrepancies between the number of students the school claimed it had — and received public money for — and the number it actually had. The school administration had allegedly used tax money to help pay the principal's rent, lease a sports car, and hire a bodyguard. The school had $1 million worth of unpaid bills when it finally shut down.

"To some charter school supporters the failure of Edutrain was an example of the educational market imposing its discipline," writes Alex Molnar in the October 1996 *Educational Leadership*. That rationale misses the point, he says. The educational market does not punish the people who set up a school the way a financial market punishes investors in stocks and bonds when share prices plummet or a bond issue defaults. "In the Edutrain fiasco, the people punished were the students who had their education disrupted and the taxpayers and students in the Los Angeles Unified School District who were out of education money and received nothing in return," he argues.

And in Washington, D.C., the Marcus Garvey Charter School became the center of a controversy involving the alleged mistreatment of a newspaper reporter and possible theft of property. "The blowup could focus attention both on the charter operators and on the original board of education for its failure to provide close supervision," writes Pipho in the March 1997 *Phi Delta Kappan*. "How the board handles this crisis could influence the future of charter schools in this major urban area, where Congress was involved in writing the initial enabling legislation." However, the District of Columbia's stalled charter process, whose procedures had been under review after problems at the Marcus Garvey school, may get a fresh start now

that the D.C. Board of Education has approved a new charter application process. According to news reports, the application process allows two options: Prospective charter operators may apply either to the elected school board or to an independent Public Charter School Board that was created in 1997.

Unforeseen problems with certain charter schools make it clear how important — but how difficult — the local school board's oversight role can be. "School districts are finding that charter schools are both difficult and potentially rewarding. Reviewing, monitoring and overseeing a charter school can be hard work," notes Premack. "Assessing the capacity of a school or group of individuals developing a charter is more of an art than a science." He points out that some carefully developed proposals look solid on paper but can be derailed by financial, interpersonal, or logistical problems at the charter school. And, when charter schools run into trouble, they can drain extensive district time.

For charter schools to become central to a community's education efforts, they must have clear and reliable relationships with community agencies that can authorize charters, guarantee funding, and hold school operators to their promises, say Millot, Hill, and Lake. The authors suggest that charter school laws should not bypass school boards, but should transform them from "operators of a highly regulated bureaucracy into managers of a system of individual schools, each with its own mission, clientele, and basis of accountability."

EXERCISING OVERSIGHT: ADVICE FROM CALIFORNIA

Boards across the country may benefit from guidance supplied by the California School Boards Association (CSBA). In an advisory, the association urges local boards to be supportive of the charter process and to view it as an opportunity to encourage district-wide innovation. The advisory, however, also recommends that the board take great care to ensure that any approved charter school is likely to enhance the quality of education for its students and not have a detrimental impact on other schools and students in the district. The following suggestions, adapted and condensed from the CSBA advisory, could (depending on state law) pertain to many boards across the country. CSBA recommends that the school board should:

- Determine, through discussions with the superintendent and leadership staff, how the charter school concept fits into the district's overall plan for strengthening education. How will the district establish the criteria for approving or denying a charter petition? Who will be involved in reviewing the petition?
- Adopt a board policy reflecting the board's charter school philosophy and the responsibilities of the petitioner and the board.
- Determine how district staff will ensure that charter petitioners understand the district's criteria for approval.
- Disseminate charter school information through informational workshops, written notifications, and other methods of communication.
- Have district professional staff (supplemented by outside consultants or committees if appropriate) review the petition for completeness and quality.

- As the board reviews the charter, it should address these issues:
  - Instructional/curricular: How well does the charter identify the goals of the educational program? Does the educational plan ensure equal access for all students to a quality educational program? Does it address the needs of those students who are low-achieving, have limited English, or have special needs? What is the role of parents? Are courses of study and curriculum aligned with the school's philosophy, goals, and objectives? Is there a process for the planning, periodic review, revision, and evaluation of the curriculum? Is there a process for reviewing textbooks? How well does the charter describe the method for assessing pupil outcomes and progress?
  - Governance: Does the charter make clear who is responsible for fiscal matters, the education program, and other areas? How well does the charter provide for the health and safety of students and staff? If the charter provides for ongoing relationships with the district in the governance area, what are the parameters of those relationships?
  - Fiscal, business, maintenance, and operations issues: How well does the charter provide for fiscal accountability of public funds? To what extent does the petition describe the methods to be used in conducting annual audits of the financial operations of the charter? What will a district charge a charter school for use of the school building, or will the district sell the building to the charter school? Will the charter school be allowed to modify the structure of a school? What are the plans for ongoing maintenance of school facilities?
  - Personnel: Who is the employer? How effective is the plan for staff selection, and what qualifications are required of teachers? Are issues of salary, schedules, benefits, leaves, work day and work year, evaluations, and grievance and dismissal procedures adequately addressed? How well does the petition address the manner by which staff members will be covered by a retirement system?
  - Liability and legal issues: What are the unique characteristics of the petition that have legal and liability implications for the district? How do petitioners address those concerns? (The CSBA recommends that school boards consult with local legal counsel in this area.)
  - Student admissions and student rights: How well does the petitioner describe the admissions requirements, if any? How effective is the charter school's plan for achieving racial and ethnic balance representative of the general population in the district? How well does the petition describe pupil suspension and expulsion processes?
- If the charter is approved, the board must have a process for ongoing monitoring and review, a process that should specify a schedule for assessing the charter and the criteria by which the charter will be evaluated.
- If the charter is denied, the board should clearly state its rationale and may include factors such as the recommendation of the professional staff, the charter's potential for success or failure, its effect on the education or financial viability of the district, and the incompleteness of the charter petition.
- The board has a responsibility to revoke a charter if it has violated a law, failed to meet generally accepted standards of fiscal management, or failed to meet or pursue any of the student outcomes identified in the charter petition.

Believing that all public schools should provide a high-quality education for each student, the National School Boards Association (NSBA) supports locally developed policies and program options that give parents the chance to select public schools or programs for their children.

Within the realm of public school choice, charter schools can, under certain conditions, be a viable option, say NSBA officials. During its April 1997 Delegate Assembly, NSBA passed a resolution recognizing charter schools as one of several mechanisms available to local school boards, provided that the school board:

a) retains the sole authority to grant the charter;

b) retains options to decertify any school that fails to meet criteria set forth in the charter or as otherwise specified by the local school board;

c) maintains accountability, such as determining the criteria, standards, or outcomes that will be used in establishing the charter; and

d) ensures that the charter does not foster racial, social, religious, or economic segregation or segregation of children with disabilities.

As NSBA executives noted in an editorial in the February 27, 1997, *School Board News*, charter schools raise numerous governance issues for school boards. Those issues include: Should entities outside the school system be empowered to grant a charter? What is the district's legal liability for the self-governed actions of the charter school? What kinds of services must the district provide no matter who grants the charter?

School boards must also address personnel issues regarding the hiring and firing of public school teachers, the due process rights of students and staff, and staff qualifications. Additionally, boards must address a broad range of operational issues pertaining to performance standards; the percentage vote of parents needed to convert an existing school to a charter school; the enrollment of private, religious, or home-schooled students; and various issues relating to the funding of a charter. NSBA says it believes all these issues and more must be addressed if charter schools are to become a constructive force in American education.

Since charter schools are new, longitudinal data on student achievement do not yet exist to demonstrate their effectiveness, NSBA officials contend. The long-term success of any charter school, or of the concept as a whole, probably will depend to a large degree on the sustained energy of the parents or teachers to perform a broader range of responsibilities than their counterparts in traditional public school programs, the editorial states. Accordingly, NSBA believes most state legislatures have been wise to limit the number of charters that can be established.

Finally, NSBA says, it should be recognized that while 27 states have passed legislation, barely 500 charter schools were operating at the end of the 1996-1997 school year. As small schools, with an average enrollment of less than 300 students, charters educate only a tiny fraction of the 44,621,776 million students who were enrolled in 1995-1996.

"Hence, regardless of merit, charter schools are, at best, a marginal strategy from which we can learn," NSBA executives say. "They are not a

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panacea and certainly should not be viewed as an excuse for legislators to give short shrift to their commitment of resources to the schools where the vast majority of the public school children are being educated."

In an effort to maximize the successes of the charter school movement, NSBA and its Council of Urban Boards of Education support:

- Continuing objective and comprehensive research on charter school effectiveness. As noted in this report, much of the research conducted on charter schools so far has had limited scope and certain inherent biases.

- Continuing accountability. New state laws and amendments to existing laws should define very precisely the methods and timelines by which charter schools will measure student achievement. On the local level, school boards should make certain each charter clearly spells out mutually agreed upon methods of accountability.

- Dissemination of successful practices. The U.S. Department of Education and state laws should ensure that successful charter school practices and programs are widely disseminated, so that traditional public schools can incorporate, where appropriate, those strategies into their educational systems.

Clearly, charter schools will be a fast-growing component of many public school systems in the foreseeable future, and urban school boards in particular must be ready to meet the challenges, and take advantage of the opportunities, which this new form of schooling can provide.

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National School Boards Association
Council of Urban Boards of Education

The NSBA Council of Urban Boards of Education (CUBE) was established by the NSBA Board of Directors in 1967 to address the unique needs of school board members serving the largest cities in the United States.

Any school board that is a National Affiliate of NSBA and serves a community with a core-city population of at least 100,000 persons is eligible for membership in CUBE, as is any NSBA National Affiliate school board that is a member of a state-level urban council in its respective state school board association. CUBE is governed by a 12-member Steering Committee of urban board members.

Purpose

CUBE exists to enable school board members to gather information, develop recommendations, and take appropriate action to improve the quality and equality of education provided in densely populated cities inhabited by people of widely varying, diverse, and heterogeneous backgrounds.

Program

Through its subcommittees and staff, CUBE uses conferences, workshops, specialized publications, *School Board News*, consulting services, telephone contacts and all of the resources of the NSBA National Affiliate program to improve the policy making effectiveness of urban school board members. In cooperation with the NSBA Board of Directors, CUBE serves as vehicle for bringing the urban perspective before federal officials and members of Congress.

Steering Committee

The CUBE Steering Committee, which meets quarterly, is composed of 12 urban school board members from across the United States, and the Immediate Past Chair. The President and the Executive Director of the National School Boards Association serve as ex-officio members of the Committee.

Committee members are elected by the CUBE membership to a 3-year term. The CUBE Chair appoints a Nominating Committee to oversee the compilation of a slate of nominees from CUBE members in good standing. The Nominating Committee gives consideration to slating nominees so that a regional balance is maintained as well as to assure nondiscrimination on the basis of sex, race, etc. The CUBE Chair and Vice Chair are elected by the Steering Committee.

about NSBA...

The National School Boards Association is the nationwide advocacy organization for public school governance. NSBA's mission is to foster excellence and equity in public elementary and secondary education in the United States through local school board leadership. NSBA achieves its mission by amplifying the influence of school boards across the country in all public forums relevant to federal and national education issues, by representing the school board perspective before federal government agencies and with national organizations that affect education, and by providing vital information and services to Federation Members and school boards throughout the nation.

NSBA advocates local school boards as the ultimate expression of the unique American institution of representative governance of public school districts. NSBA supports the capacity of each school board — acting on behalf of and in close concert with the people of its community — to envision the future of education in its community, to establish a structure and environment that allow all students to reach their maximum potential, to provide accountability for the people of its community on performance in the schools, and to serve as the key community advocate for children and youth and their public schools.

Founded in 1940, NSBA is a not-for-profit federation of state associations of school boards across the United States and the school boards of the District of Columbia, Guam, Hawaii, Puerto Rico, and the U.S. Virgin Islands. NSBA represents the nation's 95,000 school board members. These board members govern 15,025 local school districts that serve more than 40 million public school students — approximately 90 percent of all elementary and secondary school students in the nation. Virtually all school board members are elected; the remainder are appointed by elected officials.

NSBA policy is determined by a 150-member Delegate Assembly of local school board members from throughout the nation. The 24-member Board of Directors translates this policy into action. Programs and services are administered by the NSBA Executive Director, assisted by a professional staff. NSBA is located in metropolitan Washington, D.C.

NSBA's Mission Statement

The mission of the National School Boards Association, working with and through all its Federation Members, is to foster excellence and equity in public education through school board leadership.

NSBA's Vision for Public Education

The National School Boards Association believes local school boards are the nation's preeminent expression of grass roots democracy and that this form of governance of the public schools is fundamental to the continued success of public education. Adequately funded, student-centered public schools will provide, in a safe and supportive environment, a comprehensive education for the whole child and will prepare all of America's children for a lifetime of learning in a diverse, democratic society and an interdependent global economy. America's school boards, by creating a vision of excellence and equity for every child, will provide performance-oriented schools that meet today's problems as well as the challenges of tomorrow.

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Excellence and Equity in Public Education through School Board Leadership

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